

sufficient for the conviction. The breathalyzer test, in fact, is taken by some persons to establish their innocence. People sometimes want to take a breathalyzer because they know they've only had one drink or they haven't had any drinks or they've taken medicine or something so they will take the breathalyzer to establish their innocence. If, in fact, we revert to the system we have now and someone declines to take a breathalyzer test, their license is suspended for six months under the administrative procedures and, in fact, they can contest that administrative decision and they can contest their innocence in court. And, in fact, if they fail to take the test they can be either convicted or not convicted. The reason so many people are not convicted of DWI offenses has nothing to do with the breathalyzer test or this particular statute. The reason is that city and county prosecutors have such a heavy caseload that they can't possibly try all the cases that are submitted to them and as a result they enter into plea bargain agreements and agreements to try to get the offending driver into rehabilitation programs if they happen to have a drinking problem. That is why you don't have all the convictions for every charge that has been filed. I think the amendment may have been a compromise but it was a half-baked compromise, it wasn't well thought out and Senator Chambers and I, I think have pointed out the inconsistencies and the real problems in that type of amendment because if someone is innocent, goes to trial, is found innocent, yet they refuse to take the breathalyzer, they still have the penalty of the one-year suspension. On the other hand, if they are innocent and they choose to plead guilty even though they totally believe in their innocence, they are able to have the suspension of their license reduced from one year to six months. It puts them in a tremendous bind. It puts them in a situation where they cannot win even though they may have been innocent of the charges made against them and believe it or not, everybody that is picked up for DWI is not guilty. A lot of people, that is...I agree it is a serious problem in our society but this is not the way to deal with it and this will make no change in the number of DWI offenses or the number of DWI convictions.

PRESIDENT: One minute.

SENATOR McFARLAND: All it will do will be to cause problems for the person who is picked up, is truly innocent, realizes that the breathalyzer is not an exact test, declines to take the breathalyzer test and then is faced with the Hobson's choice of